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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,631	04/14/2005	Anne Costantini	37261P108	8391
8791 7590 03/20/2007 BLAKELY SOKOLOFF TAYLOR & ZAFMAN 12400 WILSHIRE BOULEVARD SEVENTH FLOOR LOS ANGELES, CA 90025-1030			EXAMINER MENEZES, MARCUS	
			ART UNIT	PAPER NUMBER
			3677	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/20/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/531,631

Applicant(s)

COSTANTINI, ANNE

Examiner

Marcus Menezes

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 January 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 and 17-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 10, 13-15, 20, 23 and 29 is/are rejected.
- 7) ☒ Claim(s) 4-9, 11, 12, 17-19, 21, 22, 24-28 and 30 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date \_\_\_\_\_.

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

- Examiner apologizes for allowing claims 3 and 16 in the previous office action.

However, Applicant should note that this does not constitute a final office action.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1,2,3,10, 13-15,20, 23 and 29 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Esselink (US Patent No. 6,501,430).

Regarding claims 1,13 and 23, Esselink discloses an electronic button tag for tagging and identifying cattle comprising a transponder (20) fixed in place without compression between the two shell portions, programmable or not, enclosed in a shell, said shell comprising an open-ended or blind transverse passage (12) (See figures 10 and 11), characterized in that the shell is made from two half-shells namely a lower half-shell (22 – lateral sides of device) and an upper half-shell (14,16), which is disposed transversely to the axial passage opening.

Further, the upper half-shell includes a sleeve (14) with a central opening around the median axis, wherein a cylindrical wall projects outwards on a planar wall (piece beneath element 14; see figure 3) and is extended by an inner cylindrical wall (14) below said planar wall to connect with a corresponding lower cylindrical wall on the

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lower half-shell (22), the planar wall of the upper half-shell (piece beneath element 14; see figure 3) being connected on its periphery to a vertical cylindrical wall (22) connecting it to the lower half-shell.

As for the assemblage of said shell halves including the use of the glue adhesive for the transponder as well as the laser weld, it has been held that the method of forming the device is not germane to the issue of patentability of the device itself. Regarding the adhesive, the specification does allow for other fastening means for the transponder, as long as the transponder is not compressed between the two shell halves. (See the first paragraph of p.3 of the specification). Therefore, this limitation has been given minimal patentable weight. (See Figs. 3,7,9)

Regarding claim 2, Esselink also discloses that the two half-shells are provided with complementary internal and external walls.

Regarding claim 14, Esselink discloses that the cylindrical wall of the first shell portion (14) provides a passage for a punch of a male tag (34), wherein said cylindrical wall of the first shell portion having a conical form and providing a shoulder within the sleeve. (See Figs. 10-11).

Regarding claim 15, Esselink discloses an internal projection that is located between the cylindrical wall and a peripheral rim of the second shell position, the internal projection being of a height less than the distance between the planar walls of the first and second shell portions. (See Fig. 6. The ledge or increase in diameter to the left of the cylindrical wall (16) constitutes said internal projection).

Regarding claims 10, 20 and 29, Esselink discloses that a processor of the transponder is located on a coil. As for the use of adhesive, see above regarding the method of forming a device.

### ***Response to Arguments***

3. Applicant's arguments filed January 25, 2007 have been fully considered but they are not persuasive.

Applicant argues that two half-shells are not evident in the prior art due to the method of forming said prior art. The method of forming the device is not germane to the issue of patentability of the device itself. Therefore, the limitation of laser welding has been given minimal patentable weight.

### ***Allowable Subject Matter***

4. Claims 4-9,11,12, 17-19,21,22,24-28 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus Menezes whose telephone number is 571-272-6284. The examiner can normally be reached on 8:00am - 5:30pm M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

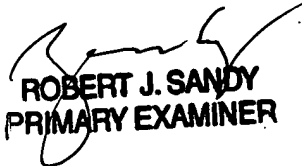
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Marcus Menezes

Examiner

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MM

  
**ROBERT J. SANDY**  
**PRIMARY EXAMINER**